IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO.2752 OF 1991

Indian Airlines. ...Petitioner.
Vs.
K.J. Verma & Ors. ...Respondents.
....
Mr. S.M. Dixit with Mr.Ananjay Singh for the Petitioner.
None for the Respondents.
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CORAM : DR.D.Y.CHANDRACHUD, J.

December 14, 2006.

P.C.

This petition is directed against an order passed by the Central Government Industrial Tribunal. The award of the Central Government Industrial Tribunal dated 14th January 1991 was in respect of three references under Section 10 of the Industrial Disputes Act, 1947. All the three references involved a common question, the question being as to whether Indian Airlines was justified in paying three workmen (the First, Second and Third Respondents) subsistence allowance at a reduced rate. The workmen involved in these proceedings were working at the material time as Catering Assistant, Cook-Helper and Loader respectively. On the night of 17th and 18th June 1984, a lady

passenger, who arrived at Mumbai Airport from Delhi, lost her purse. Some porters who were suspected, were taken by the Police to the Airport Police Station. Some members belonging to the Commercial Staff, including the three workmen, gathered at the Police Station in protest against the alleged illtreatment of the suspects by the Police and struck work in sympathy with the porters who had been apprehended. The First, Second and Third Respondents were placed on suspension in June 1984 and, disciplinary proceedings came to be convened against them. After the conclusion of the disciplinary enquiry, the Commercial Manager imposed a permanent reduction in the basic pay of the Second and Third Respondents by one incremental slab effective from 1st May 1985 and on the First Respondent by three incremental slabs. In an appeal by the First Respondent, the punishment was reduced to reduction of pay by one incremental slab. In the reference before the Tribunal, the validity of the order of punishment was not called into question, but it was only the payment of subsistence allowance at a reduced rate that was required to be adjudicated upon. The workmen were paid subsistence allowance at the rate of 50% of their wages for the first ninety days of suspension and at the rate of 75% of the balance

period of suspension in accordance with the provisions of Regulations 21 and 23 of Indian Airlines' Service Regulations. The Tribunal held that the subsistence allowance at a reduced rate was incorrectly paid to the workmen and they were entitled to full payment under the Standing Orders framed under the Industrial Employment (Standing Orders) Act, 1946.

The order of the Tribunal has been called into question in these proceedings and Rule was granted on 16th September 1991. Interim relief was refused. As a consequence of the refusal of interim relief, Counsel appearing on behalf of the Petitioner states that the workmen have been paid dues on account of subsistence allowance in compliance with the award of the Tribunal. Counsel appearing on behalf of the Petitioner stated that the First Respondent retired on 31st July 1997, the Second Respondent retired on 29th February 2000 and the Third Respondent is on the verge of retirement and is to retire on 31st December 2006. An amount of Rs. 4,587.84 was paid to the First Respondent, Rs. 4,813.90 to the Second Respondent and Rs. 4,352.99 to the Third Respondent on 11th November 1991. The amounts have been paid to the workers around fifteen years ago and it would, in my

view, be manifestly unjustified to permit any recoveries to be made at this stage. Counsel appearing on behalf of the Petitioner has also fairly stated that Indian Airlines is not interested at this stage in pursuing the claim for recoveries. In that view of the matter, it is not necessary to enter upon the merits of the issues that are raised in the award of the Tribunal which are of academic interest, considering the aforesaid circumstances. The petition is accordingly disposed of. However, it is expressly clarified that the present judgment shall not be regarded as an expression of any opinion by the Court on the correctness of the view that has been formed by the Tribunal on the applicability of the Industrial Employment (Standing Orders) Act, 1946 or the regulations framed thereunder.

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